

cost, or guaranteed loans, (3) contain a price warranty or price reduction clause, (4) contain an economic price adjustment clause, (5) are requirements, indefinite quantity or letter type contracts as defined in FAR Part 16, or (6) contain the provision at FAR 52.223-4, Recovered Materials Certification. The contracting officer may modify the clause to define the specific area of audit (e.g., the use or disposition of Government furnished property). Legal Counsel and the Assistant Inspector General-Auditing or Regional Inspector General-Auditing, as appropriate, must concur in any modifications to the clause.

514.201-70 GSA forms.

The GSA Form 1602, Notice Concerning Solicitation, may be used to:

- (a) Describe the type of contract, the duration of the contract, and the type of supplies or services being procured;
- (b) Direct the attention of prospective offerors to special requirements which if overlooked, may result in rejection of the offer;
- (c) Highlight significant changes from previous solicitations covering the same supplies and services; and
- (d) Include other special notices as appropriate.

[61 FR 6167, Feb. 16, 1996]

514.201-71 Request for brand name information limitation.

When an item is described in a solicitation by a formal specification or a detailed purchase description (other than a brand name or equal purchase description), the solicitation may not require or request that bidders specify the brand names of the products offered. However, brand name information may be requested when—

- (a) Descriptive literature for items is requested in accordance with FAR 14.202-5.
- (b) First article testing is required.
- (c) The procurement is for qualified products.

514.202 General rules for solicitation of bids.

514.202-4 Bid samples.

- (a) *Solicitation requirements.* (1) When a determination is made to require bid-

ders to submit bid samples, the solicitation must include a provision incorporating the provision at FAR 52.214-20 and containing the information in FAR 14.202-4(e) and must require:

- (i) Samples be from the production of the manufacturer whose products will be furnished under the resultant contract; and

- (ii) Bidders use GSA Form 434, Sample Record Sheet, copies of which will be furnished with each solicitation.

- (2) If a determination is made that bidders will be permitted to reapply samples furnished under a previous solicitation, FAR 52.214-20, Alternate II, shall be used.

- (3) In addition to subjective characteristics of bid samples, objective characteristics may be used when it has been determined, on the basis of past experience or other valid considerations, that examination of such characteristics is necessary to determine the responsiveness of the bid. When both types of characteristics are listed in the solicitation, they must be listed separately under the headings "Subjective Characteristics" and "Objective Characteristics."

- (4) Because of variations in circumstances and differences in commodities, no standard provision can be prescribed for use in all solicitations. The provision at 552.214-76, Bid Sample Requirements, is provided as an example and may be used in solicitations as shown or modified to fit the circumstances of the procurement.

- (b) *Handling and disposition of samples.* (1)(i) Samples held during the period of contract performance may be disposed of after deliveries are completed and Government acceptance has occurred, in accordance with the instructions indicated on GSA Form 434.

- (ii) If the contracting officer anticipates that there may be a future claim regarding a contract, the bid samples must be retained until the claim is resolved.

- (2) All other bid samples should be held until awards are made and then disposed of in accordance with instructions indicated on GSA Form 434.

514.202-7 Facsimile bids.

Contracting officers may authorize facsimile bids (see FAR 14.201-6(w))

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after considering factors outlined in FAR 14.202-7, provided that facsimile equipment is available in the office designated to receive bids, and procedures and controls have been established for receiving and safeguarding incoming bids.

[55 FR 20458, May 17, 1990]

514.203 Methods of soliciting bids.

514.203-1 Transmittal to prospective bidders.

(a) Prospective bidders, as used in FAR 14.203-1, include the incumbent contractor (except when its written response to the contracting activity's notice of contract action under FAR subpart 5.2 states a negative interest) and should include bidders that responded to recent solicitations for the same or similar items. Names should be checked against the bidders' mailing list and added if not already listed.

(b) Contracting officers shall ensure that all amendments to solicitations and related notices are furnished promptly to every addressee previously furnished a solicitation.

[54 FR 26514, June 23, 1989, as amended at 56 FR 47005, Sept. 17, 1991; 60 FR 42803, Aug. 17, 1995]

514.204 Records of invitations for bids and records of bids.

The contracting officer shall obtain from the Business Service Center (BSC) and include in the file the names and addresses of firms to whom the BSC furnished solicitations. Contracting officers shall furnish these firms with applicable amendments or supply the BSC with amendments for distribution.

514.205 Solicitation mailing lists.

514.205-1 Establishment of lists.

(a) Contracting officers within the Federal Supply Service (FSS) should use the computerized central solicitation mailing list maintained by Region 7 for supplies and services for all procurements expected to exceed the simplified acquisition threshold. Other GSA contracting activities may maintain local lists. Contracting activities that maintain local mailing lists must inform the BSC of the list and provide related information regarding the list.

(b) Inquiries from or for business firms requesting inclusion on solicitation mailing lists should be referred to the BSC serving the geographic areas in which the firms are located. The BSC will assist firms to be included on the proper GSA mailing lists and will provide application forms and related information.

[54 FR 26514, June 23, 1989, as amended at 60 FR 42803, Aug. 17, 1995]

514.211 Release of acquisition information.

Before award, access to information concerning the Government cost estimate is limited to Government personnel whose official duties require knowledge of the estimate. After award, the total amount of the Government estimate may be revealed, upon request. The basis for calculating the estimate may not be released at any time.

514.213 Annual submission of representations and certifications.

The Commissioners of the Federal Supply Service, Information Resources Management Service, and the Public Buildings Service may establish procedures for contracting activities in their respective organizations and assign responsibility within contracting activities for centrally requesting, receiving, storing, verifying and updating offerors' annual submissions.

[55 FR 20458, May 17, 1990]

514.270 Bid acceptance period.

(a) The 60-day period stipulated in the parenthetical statement in Item 12 of the Standard Form 33, Solicitation, Offer and Award, is neither a "standard" nor a request to bidders to allow such period.

(b) The contracting officer may specify a different minimum bid acceptance period and/or permit a bidder to insert a number of calendar days after bid opening, during which its bid is valid.

(c) When specifying a minimum bid acceptance period, the contracting officer shall:

(1) Insert in solicitations the provision at 552.214-16, Minimum Bid Acceptance Period, instead of the provision at FAR 52.214-16, and

(2) Mark Item 12 of SF 33 as follows to preclude a bidder from inadvertently rendering its bid nonresponsive by inserting a figure less than that stipulated by the Government in 552.214-16(c).

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214.16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within N/A* calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated points(s), within the time specified in the schedule. *See Provision 552.214-16.

514.271 Aggregate awards.

514.271-1 General.

(a) *Definition.* "Aggregate award" means an arrangement, stipulated by the Government in the solicitation, whereby two or more separately-priced line items are combined for award to that bidder whose offer will result in the lowest overall cost to the Government for all of the line items within the group, without regard to whether the prices offered by the bidder are low on each item within the group. (See also the definition of a "line item" in FAR 3.302.)

(b) *Justification for use.* (1) While ordinarily prices are solicited on an individual line item basis, it sometimes may be in the Government's best interest to combine two or more line items for an aggregate award such as when—

(i) Uniformity of design, style, and finish is desired, as in the acquisition of suites of household furniture;

(ii) The articles being acquired will be assembled and used as a unit, and may not be interchangeable if acquired from different manufacturers;

(iii) The demand for certain articles is large, but the demand for other similar articles is not sufficient to attract competitive bids unless awarded in conjunction with the high-demand articles (e.g., various sizes of socket wrenches);

(iv) One location (delivery point) has a large requirement, and another location has a requirement that is too

small to individually attract competitive bids; or

(v) It is impractical to award and administer numerous small contracts for similar articles or services.

(2) Before deciding to combine items for aggregate award, the contracting officer shall include in the contract file the rationale for establishing an aggregate award formula, which must:

(i) Address the capability of bidders to furnish the types and quantities of supplies or services in the aggregate as well as the impact on bidders if different delivery points are grouped; and

(ii) Be capable of accurately projecting the lowest overall cost to the Government.

(3) Line items may not be grouped for award on an aggregate basis when it would:

(i) Preclude a significant number of firms from bidding due to an inability to provide all the types or quantities of supplies or services or to make deliveries to the various delivery points included in the prospective aggregate group; or

(ii) Increase overall prices to the Government by restricting significantly the number of eligible bidders for any other reason (see also 514.271-3).

(4) To determine the lowest cost on an aggregate group of items, it is necessary to extend unit prices by accurate weight factors calculated to reflect the true or proportionate quantities that will be purchased under a resultant contract (see 514.271-2). If weight factors must be based upon unreliable or conjectural information, or where reliable estimates on anticipated quantities are not available, the price list method described in 514.272 should be considered.

(5) If accurate weight factors and pre-established list prices are not available, an aggregate award formula should not be used because it could result in unbalanced bids and/or award could not be assured to result in the lowest overall cost to the Government.

(c) *Evaluation factors for award.* When items will be awarded on an aggregate basis, the solicitation must clearly state the basis on which bids will be evaluated.

(1) If weight factors are used, bidders shall be required to submit a price on

each item within the group with award to be made to the responsive and responsible bidder whose computed overall price for the aggregate group of items is actually the lowest or can accurately be projected to result in the lowest overall cost to the Government. Failure to submit a price on each item within a group will make the bid ineligible for award with regard to that group of items.

(2) If the price method is used, bidders shall be required to express prices as a percentage to be added to or subtracted from the list price for each group of items with award to be made to the responsive and responsible bidder whose percentage factor produces the most favorable price to the Government.

514.271-2 Weighting of items for aggregate award.

(a) Unless the same weight factor is applicable to all line items in the aggregate group, accurate weight factors are essential for determining which bid would result in the lowest overall cost to the Government for the aggregate group.

(b) While the phrase "lowest overall cost to the Government" is used in this regulation, it is not always necessary that an aggregate award formula be capable of projecting actual cost. It is sufficient if the relative proportionate cost between line items within the aggregate group can be projected accurately, i.e., actual quantities may not be available, but ratios of the requirements within the line items in the aggregate group are available.

(c) Estimated quantities that apply to indefinite quantity or requirements contracts may be reduced to smaller numbers by a common denominator to facilitate the computations involved in evaluating bids, if doing so does not sacrifice precision.

(d) Actual purchase quantities will be used as weight factors for definite quantity acquisitions because a bidder might include two or more aggregate groups, or an aggregate group and various individual line items, under an "all or none" qualification. Proportionate weight factors must not be used in the evaluation process where

"all or none" qualifications are permitted.

(e) Weight factors may not be based on the estimated dollar value of purchases. If the dollar value of previous purchases is the only information available, and there is no recourse but to make award on an aggregate basis, the value of previous purchases must be converted to quantities for the purpose of establishing weight factors (i.e., divide total purchases of each item by the unit price to determine number of units purchased).

514.271-3 Grouping of line items for aggregate award.

(a) *General.* While paragraphs (b) and (c) pertain to supply contracts (articles and delivery points), the same principles apply to service contracts (types of services and service areas).

(b) *Grouping of different articles.* Only related articles, normally manufactured or produced by a majority of prospective bidders, should be included in an aggregate group. The grouping of unrelated articles usually is contrary to 514.271-1(b)(3).

(c) *Grouping of geographic locations or delivery point.* The contracting officer should consider the following guidelines before deciding to group different geographic locations or delivery points for aggregate award:

(1) If different delivery points have sufficient requirements so that individual shipments to each point will involve not only economic production runs, but carload or truckload quantities, these points should be listed as separate line items.

(2) The types of bidders (i.e., small or large firms, manufacturers or distributors, etc.) responding to previous solicitations are an important consideration. For example, if previous bidders are distributors having franchises within certain territories, the grouping of different territories would tend to restrict competition.

(3) The impact of transportation costs on competition and pricing, since transportation costs may constitute a significant portion of the total delivered cost. Depending upon the supplies being acquired:

(i) Grouping widespread geographic locations or delivery points may reduce

competition and/or result in higher prices due to the loss of "area pricing" advantages when a potential supplier has a single production point.

(ii) Conversely, for many smaller commercial items (hand tools, locks, etc.) manufacturers may quote the same price for delivery anywhere in the U.S.

(iii) Contracting officers should obtain the advice and assistance of transportation specialists before grouping geographic locations or delivery points, to include information regarding the location of tariff boundaries.

514.272 Price list method.

(a) *General.* The price list method may be used to avoid unbalanced bidding in requirements and indefinite quantity/indefinite delivery contracts when aggregate awards will be made and accurate estimates of anticipated quantities are unavailable. This method utilizes pre-established list prices for acquiring groups of similar items, services, or repairs and alterations. The following elements of the price list method must be included in the solicitation:

(1) A pre-established price list.

(2) An estimate of requirements, if available.

(3) A requirement that a bidder express its price as "net" or as a percentage added to or subtracted from the list prices for each group.

(4) The percentage factor in (a)(3) of this section is a price related factor, which must be identified in Section M of the Uniform Contract Format.

(b) *Development of pre-established list prices.* (1) Pre-established list prices may be developed by one or more of the following methods:

(i) Industry published prices.

(ii) Industry surveys.

(iii) Government cost estimates based upon knowledge of the supplies

or services to be grouped and previous contract prices.

(2) When proposed list prices will be used for the first time, prospective bidders should be given an opportunity to review the proposed list and furnished information on how the list prices will be used. Copies of the draft solicitation may be provided.

(3) The contracting officer must ensure that items are properly grouped and that the list prices for the grouped items bear a reasonable and balanced relationship to one another. Before using prices resulting from awards made under the weighted item method to develop price lists, those prices must be reviewed to ensure that they did not result from unbalanced bidding.

514.272-1 Supply contracts.

(a) Estimated requirements for each item in a group or for the entire group must be shown in the solicitation. For contracts for store stock items, estimated quantities should be shown only if estimates of demand for each item within a group can be derived from Government records (or verified contractor sales reports). All the estimates must be current. If the Government's needs cannot be estimated, the solicitation may include past orders. (See CG Decision, B-209037, 82-2 CPD para 323 (1982).)

(b) The bidding schedule must clearly state that bidders must quote only one percentage factor for each group, which must be expressed as either "net" or as a deduction from or an addition to the listed prices.

(c) The following illustrates a bidding schedule arrangement for a group of items for aggregate award under the price list method:

Drills, Twist, High Speed, under Federal Specification (dated _____) and Amendment _____ (dated _____), Wire gauge sizes, straight shank, shortlength, Type C:

Item No.	National stock No.	Drill size	Est. quantity	Unit	List price
Group 1 (Items 1 through 5)					
1	5133-00-189-9246	1	2,800	Package	\$11.16
2	5133-00-189-9247	2	2,400	Package	11.16
3	5133-00-189-9248	3	2,800	Package	10.44
4	5133-00-189-9249	4	1,600	Package	10.80
5	5133-00-189-9250	5	2,000	Package	10.80